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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,825	11/13/2003	Mark D. Monica	IPE-1	8830
28581	7590	08/23/2005	EXAMINER	
DUANE MORRIS LLP			PATEL, TAJASH D	
PO BOX 5203			ART UNIT	
PRINCETON, NJ 08543-5203			PAPER NUMBER	
			3765	
DATE MAILED: 08/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/712,825	MONICA, MARK D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tejash D. Patel	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply :**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-95,97-115,117-126,129-135 and 156-159 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-95, 97-115, 117-126,129-135 and 156-159 and 156-159 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5 and 6-12, 17-20, 22, 24, 25-26, 36-74, 81-92, 97-101, 109-114, 119-123, 131-135 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell (US 6,295,654) in view of Monica (US 6,321,386). Farrell discloses a protective pad apparatus (10) for protecting the chest, back and shoulder that includes a shell assembly (40) having a cushioning laminated pad (20) being fastened thereto which allow air to flow therethrough as shown in figures 2 and 4. Further, the laminate includes an outer and inner fabric layers (24) which allows air to flow therethrough as shown in figure 2. In addition, the cushioning pad laminate includes at least two discrete impact absorbing foam layers (32,34), col. 3, line 53 – col. 4, line 11. Furthermore, the cushioning pad laminate can include at least three discrete impact absorbing layers (30,32,34). Also, the shell assembly (40) includes a plurality of discrete protector panels as shown in figure 4. Additionally, the shell assembly has first and second halves which move relative to one another, col. 5, lines 1-13. The protective pad is secured to the body by a belt strap (54). Further, the shell assembly being defined front, back and shoulder portions/panels

each has a plurality of raised embossments thereon as shown in figure 4. However, Farrell does not show the pad having an outer fabric layer that reflects heat.

Monica discloses a protective pad having a shell assembly that allows air therethrough as shown in figure 10. Further, the pad can be laminated with an outer fabric layer that reflects heat, col. 4, line 61- col. 7, line 52.

It would have been obvious to one skilled in the art at the time the invention was made to provide the protective pad of Farrell with an outer fabric layer that reflects heat as taught by Monica in order to keep the wearer cool or depending on the end use thereof.

With regard to claims 5, 12, 18, 20, 26, 37, 39, 41, 45, 73, 92, 101, 109-110, 114, 123, 131, 132 it would have been obvious to one skilled in the art at the time the invention was made to form the outer fabric of Farrell when viewed with Monica form any desired material that was available at the device was made or as required for a particular application thereof. Further, it would have been obvious that the cushioning pad and shell assembly of Farell in view of Monica can be made of any color as a matter of design choice.

3. Claims 13-16, 21, 23, 27-35, 52- 54, 75-80, 93-95, 102-108, 115, 117-118, 124-126, 129-130 and 156-159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell in view

of Monica and further in view of Bainbridge et al. (US 6,453,477). Farrell discloses the invention as set forth above except for showing the cushioning pad including a substrate that is made of foam beads that are fused where the beads contact.

Bainbridge et al. (hereinafter Bainbridge) discloses a cushioning pad (20) including foamed beads (22) that are fused together where the beads contact one another, col. 14, lines 30-67 and as shown in figures 30-32. Also, the pad is detachably secured to an shell assembly (54) by detachable snap fasteners (60) as shown in figure 25.

It would have been obvious to one skilled in the art at the time the invention was made to substitute one of the layers of the cushioning pad of Farrell when viewed with Monica with a substrate that is made of foam beads that are fused where the beads contact as taught by Bainbridge as an alternative but equivalent means of absorbing force of impact as known in the art. Furthermore, it would have been obvious that impact cushioning material having different absorbing properties can be substituted for the layers of Farrell as required for a particular application thereof. Also, it would have been obvious that the shell assembly of Farrell in view of Monica can be detachably secured to the pad by snap as taught by Bainbridge so that the shell is easily removed when not in use.

***Response to Amendment***

4. The arguments and amendment filed on June 13, 2005 has been considered. In view of such the objection to claims 114, 117, 120, 123, 125, 128 and 130 has been withdrawn. However, the amendment has necessitated a new rejection based on a newly discovered prior art reference and this office action is being made FINAL and the arguments are moot.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

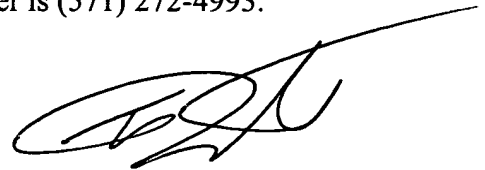
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3765

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993.

August 19, 2005

A handwritten signature in black ink, appearing to read 'Tejash Patel', with a long horizontal stroke extending to the right.

**TEJASH PATEL  
PRIMARY EXAMINER**